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JUL 27 2007

OFFICE OF PETITIONS

In re Application of :
Suresh C. Srivastava, et al. :
Application No. 10/768,996 : **DECISION ON PETITION**
Filed: January 30, 2004 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed July 29, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 30, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of \$750; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future


correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The Power of Attorney filed with the petition on March 3, 2007 is not accepted. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. The statement under 37 CFR 3.73(b) does not include a copy of the assignment or the reel and frame number. Since the assignee only holds fifty percent of the entire interest a statement under 37 CFR 3.73(b) is also need from the individual (Kwok-Hung Sit) that hold the remaining fifty percent.

The notice of acceptance mailed on August 12, 2005 in reference to the power of attorney is hereby vacated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 1642 for appropriate action by the Examiner in the normal course of business on the reply received March 3, 2007.


Irvin Dingle
Petitions Examiner
Office of Petitions

cc: INDU M. ANAND
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